

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

UNITED STATES OF AMERICA,                     )  
   )  
   )  
v.   )                     1:13-cr-73-TRM-SKL-01  
   )  
   )  
DENARIO J. SMALL                                     )

**MEMORANDUM AND ORDER**

DENARIO J. SMALL, (“Defendant”) appeared for a hearing on March 18, 2019, in accordance with Rule 32.1 of the Federal Rules of Criminal Procedure on the Petition for a Warrant or Summons for an Offender Under Supervision (“Petition”).

Defendant was placed under oath and informed of his constitutional rights. It was determined that Defendant wished to be represented by an attorney and he qualified for appointed counsel. Attorney Tim Mickel was appointed to represent Defendant. It was also determined that Defendant had been provided with and reviewed with counsel a copy of the Petition.

The Government moved that Defendant be detained without bail pending his revocation hearing before U.S. District Judge McDonough. The Government moved that Defendant be detained without bail pending his revocation hearing. Defendant waived his right to a preliminary hearing but requested a detention hearing, which was held.

U.S. Probation Officer John A. Eppenger testified regarding the factual allegations set forth in the Petition and related matters. Both parties presented their respective evidence, proffers, and arguments, which were fully considered by the Court.

Based upon the Petition and Defendant’s waiver of preliminary hearing, the Court finds there is probable cause to believe Defendant has committed violations of conditions of his supervised release.

For the reasons addressed more fully during the extensive hearing, I find that Defendant has carried his burden under Fed. R. Crim. P. 32.1(a)(6) for release because there are conditions which will reasonably assure the appearance of the Defendant and the safety of the community in accordance with 18 U.S.C. §§ 3142-43.

Accordingly, it is **ORDERED** that:

(1) The Government’s motion that the Defendant be **DETAINED WITHOUT BAIL** pending appropriate disposition of the Petition for Warrant for Offender Under Supervision Petition is **DENIED**. Defendant is released on existing conditions of supervised release along with conditions as set out in the Order Setting Conditions of Release [Doc. 43].

(2) Counsel for Defendant and the Government shall confer and make best efforts to submit to U.S. District Judge McDonough a proposed Agreed Order with respect to an appropriate disposition of the Petition for Warrant for Offender Under Supervision as soon as possible.

(3) In the event counsel are unable to reach agreement with respect to an appropriate disposition of the Petition for Warrant for Offender Under Supervision, they shall request a hearing before U.S. District Judge McDonough.

SO ORDERED.

ENTER.

s/ Susan K. Lee

SUSAN K. LEE  
UNITED STATES MAGISTRATE JUDGE